

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, December 1, 1998

DIVISION ONE

**A079463 -- The People v. Jason L. Carriger.**

The conviction for violation of Penal Code section 311.4, subdivision (b) is reversed, and the matter remanded to the trial court for resentencing. In all other respects, the judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

**A079473 --The People v. Aurelio Montoya.**

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

DIVISION TWO

**A081740 -- In re the Marriage of Sharon D. Bass and Lewis Bass.**

The orders are affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J.

**A084964 -- Bruno Wessel, Inc., v. The Superior Court of San Francisco County, Corgi Elettromeccanica, Spa, R.P.I.**

By The Court: The petition for writ of mandate/prohibition/stay is denied. Haerle, Acting P.J.

Courtroom Minutes  
Division 4  
Tuesday, December 1, 1998

Court convened at 9:30 a.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Reardon, J. and McGuiness, J.; Channing Hoo, Deputy Clerk and CHP Officer Lorrie Kempf, Bailiff.

- A078340      City of Atascadero et al.  
                 v.  
                 Merrill Lynch, Pierce, etc. et al.  
                 Cause called and argued by Gregory Call, counsel for appellants City et al., and  
                 by George Garvey, counsel for respondents. Cause ordered submitted.
- A078208      Mervyn's  
A079486      v.  
                 Angelina Reyes  
                 Sherman L. Lewis, III  
                 Causes called. Arthur F. Coon, Penny Nakatsu, Jewell Hargleroad, and Stuart  
                 Flashman argued. Causes ordered submitted.
- A082000      People  
                 v.  
                 Clarence Duncan  
                 Cause called and argued by Lance Russell, counsel for appellant Duncan, and by  
                 Martin S. Kaye, counsel for respondent. Cause ordered submitted.
- At this point, the court reconstituted itself to include Hanlon, P.J., Poche, J. and  
McGuiness, J.
- A079480      People  
                 v.  
                 Niles Davis Simpson  
                 Cause called and argued by Louis Hiken, counsel for appellant Simpson, and by  
                 Christopher Grove, counsel for respondent. Cause ordered submitted.

A081761

Mark Graham

v.

Young Adult Group etc. et al.

Cause called and argued by Allen J. Capeloto, counsel for appellant Graham,  
and by Paul Gaspari, counsel for respondents. Cause ordered submitted.

Court recessed at 11:38 a.m.

Courtroom Minutes  
Division 4  
Tuesday December 1, 1998

Court reconvened at 1:30 p.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Poche, J., Reardon, J., Jim Campbell, Deputy Clerk and CHP Officer Lorrie Kempf, Bailiff.

A081584      People,  
                 respondent,  
                 v.  
                 Patricia Henson McCann,  
                 appellant.

Cause called. Rodney Jones argued, by teleconference, on behalf of appellant, Patricia Henson McCann. Gregory Ott, D.A.G., argued by teleconference on behalf of respondent. Cause submitted.

At this time the court reconstituted itself with: Poche, Acting.P.J., Reardon, J. and McGuiness, J.

A081513      Calaveras County Water District,  
                 appellant,  
                 v.  
                 United Technologies Corporation et al.,  
                 respondents.

Cause called. David Griffin argued on behalf of appellant, Calaveras County Water District. Howard Cabot. argued on behalf of respondent. Cause submitted.

A080250      George Pavana et al.,  
                     respondents,  
                     v.  
                     Das Pollayil,  
                     appellant.

Cause called. Harry Styron argued on behalf of appellant, Das Pollayil.  
Gerald Filice argued on behalf of respondent. Cause submitted.

At this time the Court reconstituted itself with Hanlon, P.J., Reardon, J. and  
McGuinness, J.

A078565      David P. Sutton.,  
                     appellant  
                     v.  
                     Golden Gate Bridge Highway and. Transit District,  
                     respondent.

Cause called. E. Robert Wallach argued on behalf of appellant, David P.  
Sutton. David Baer argued on behalf of respondent. Cause submitted.

The Court adjourned at 3:15 p.m.

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MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, December 2, 1998

DIVISION TWO

**A084785 -- St. Joseph Convalescent Hospital, Inc. v. The Superior Court of Alameda County, Bettie J. Little, R.P.I.**

By The Court: The petition for writ of mandate is denied. Kline, P.J.

**A084955 -- In re Elgin Keith Mosby, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

**A081368 -- In re Mauricio S., a Person Coming Under the Juvenile Court Law.**

The dispositional order is modified to reflect two additional days of credit for time served. As modified, the jurisdictional and dispositional orders are affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Wednesday, December 2, 1998 (continued)

DIVISION FIVE

**A081293 -- The People v. Roger Samuel Barisdale.**

The judgment of conviction is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, December 3, 1998

DIVISION ONE

**A080794 -- The People v. Timothy Lee Forney.**

The judgment is modified as follows:

The fines of \$200 and \$300 imposed pursuant to section 290.3 under counts 2 and 5 are modified to reflect a single fine of \$300 under counts 1 and 6.

The amount of each of the two \$10,000 restitution fines imposed pursuant to section 1202.4 is reduced to \$5,000, for a total restitution fine of \$10,000.

As to section 1202.45, the judgment is modified to coincide with the existing abstract of judgment which shows a \$10,000 fine pursuant to section 1202.45 is imposed and stayed.

As modified, the judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A082147 -- The People v. Michael Black.**

**A081778 -- The People v. Vincent Carl Camper.**

The judgments are affirmed. Stein, J. We concur: Swager, J., Marchiano, J. (Not for Publication.)



Thursday, December 3, 1998 (continued)

DIVISION TWO

**A074965/A0752779 -- Johnette Marie Adams et al. v. City of Fremont et al.**

The judgment for respondents is reversed, and the trial court is hereby directed to enter judgment for appellants. Appellants are awarded costs on appeal. Cross-appeal number A074965 is dismissed as moot. Ruvolo, J. I concur: Haerle, J. See Haerle, J concurring opinion and Kline, P.J. dissenting opinion. (Certified for Publication.)

**A083917 -- Uri Zemach, et al. v. American Note Investments.**

ANI's motion to dismiss Zemach's appeal is granted. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A084288 -- In re Michael A. Williams, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus, which this court conceives as presenting a facial challenge to the constitutionality of California Code of Regulations, title 15, sections 3024 and 3104, is denied. Kline, P.J.

**A084418 -- In re John David Gann, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Kline, P.J.

DIVISION FOUR

**A078545 -- Michael Denny, as Literary Executor of the Estate of Randy M. Shilts, deceased v. Home Box Office, Inc. et al.**

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Thursday, December 3, 1998 (continued)

**A078565 -- David P. Sutton v. Golden Gate Bridge Highway and Transportation District.**

The judgment is affirmed. The District shall recover its costs on appeal. Hanlon, P.J. We concur: Reardon, J., McGuiness, J. (Not for Publication.)

**A082129 -- City of Livermore v. Lynn Guy Carson.**

The order is affirmed. Poché, Acting P.J. We concur: Reardon, J., McGuiness, J. (Not for Publication.)

DIVISION FIVE

**A082858/A082978 -- Environmental Protection Information Center, Inc., et al. v. California Department of Forestry and Fire Protection, Eel River Sawmills, R.P.I.**

The judgment on the petition for a writ of administrative mandamus is reversed. The trial court is ordered to enter a new judgment vacating the approval of THP 536 and THP 255. EPIC shall recover costs of appeal. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

THURSDAY, DECEMBER 3, 1998

Court convened at 9:00 a.m. in its Courtroom at 303 Second Street, Marathon Plaza,  
South Tower, Fourth Floor, San Francisco, California.

Present: Phelan, P.J., Corrigan, J., Parrilli, J. and C. Turner, Deputy Clerk.

Justice Phelan announced that Justice Walker would not be present at oral argument. He asked if counsel would have any objection to allowing Justice Walker (the third justice on the panel) to listen to the audio tape of the oral argument session. Counsel to advise the court of their decision when their case is called.

A077568 Healis Stevenson,

v.

California Pacific Medical Center, et al.,

Cause called and argued by Charles Morgan, counsel for appellant, and Paul D. Fogel, counsel for respondent. Cause ordered submitted.

A080638 Acceptance Insurance Company,

v.

Syufy Enterprises, et al.,

Cause called and argued by Paul Fife, counsel for appellant, and Jeremy Sugerman and Patricia Ann Scott, counsel for respondents. Cause ordered submitted.

A076353 Smith A. Ketchum, III

v.

John Moses,

Cause called and argued by Marshall Warren Krause, counsel for appellant, and Jeremy Loren Friedman, counsel for respondent. Cause ordered submitted.

Justice Parrilli not participating on the following case.

Counsel stipulated to waive the absence of Justice Walker on the following case and argument proceeded.

A079252 The People,  
v.  
Travis Simon, Jr.,  
Cause called and argued by Richard L. Braucher, counsel for appellant, and  
Ross C. Moody, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.  
Justice Parrilli not participating on the following case.

A080695 Georgia Ann Michell,  
v.  
William S. Miller,  
Cause called and argued by Robert William Drane, counsel for appellant,  
and Georgia Ann Michell-Langs, counsel for respondent. Cause ordered  
submitted.  
Justice Phelan left the bench.

A079669 Fleming Companies, Inc.,  
v.  
American Motorists Insurance Company, et al.,  
Cause called and argued by Dale Edward Fredericks, counsel for appellant,  
and David Jack Garthe, counsel for respondent. Cause ordered submitted.

A066990 Rita Shoenborn,  
v.  
Peter Shoenborn  
Cause called and argued by Julian T. Lastowski, counsel for appellant, and  
Dennis M. Sullivan, counsel for respondent. Cause ordered submitted.  
court adjourned

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, December 4, 1998

DIVISION ONE

**A077239 -- The People v. Verle Hatfield.**

Accordingly, the judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Certified for Partial Publication.)

**A080224 -- Marybeth Armendariz et al. v. Foundation Health Psychcare Services, Inc.**

The order denying arbitration is reversed and the court is ordered to enter an order severing the remedies' restriction contained in the arbitration agreement and enforcing the balance of the agreement.

Each party shall bear its own costs. Swager, J. We concur: Strankman, P.J., Stein, J. (Certified for Publication.)

DIVISION TWO

**A078784 -- In re the Marriage of Jeanne and Albert Tate.**

The sanctions order is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Friday, December 4, 1998 (continued)

**A080309 -- Mannie Joel et al. v. Valley Surgical Center et al.**

The order sustaining ValleyCare's demurrer to the entire first amended complaint and the judgment are hereby reversed. The order sustaining ValleyCare's demurrer to the third cause of action is affirmed. Dr. Joel is awarded his costs on appeal. ValleyCare to bear its own costs. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Certified for Publication.)

**A082153 -- The People v. Guy Shepherd.**

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A082905 -- The People v. James Bruce Rankin.**

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, December 7, 1998

DIVISION ONE

**A078097 & A077219 -- Kocks Crane & Marine Co. et al. v. Samsung  
Shipbuilding & Heavy Industries Co., Ltd. et al.**

This lengthy matter was tried on particular theories, and without the knowledge of post-trial events. Samsung was faced with two separate companies, one of which, it proved was more culpable than the other. The jurors listened, deliberated, made special findings on forms prepared by counsel, and we cannot now undo what the parties spent months proving at trial when the evidence produced supports the verdicts. We agree, however, with Samsung, that KCM cannot collect costs that are properly attributable to the prosecution of VKB's part of the case. For that reason, we reverse the order awarding costs to KCM, and remand for the limited purpose of allocating the costs to KCM's prosecution of the complaint. In all other respects, the judgment and orders appealed from are affirmed. The parties shall bear their own costs on appeal. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

DIVISION TWO

**A078603 -- The People v. Lawrence Howard.**

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Monday, December 7, 1998 (continued)

**A079933 -- Conservatorship of the Person and Estate of Pearl D. Huth.  
Pearl D. Huth v. San Francisco Superior Court, Jewish Family  
and Children's Services, R.P.I.**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A084995 -- Hopeman Brothers, Inc. v. The Superior Court of Alameda  
County, Alexander Lockhart et al., R.P.I.**

By The Court: The petition for writ of mandate/stay is denied. Haerle, Acting P.J.

**A085010 --In re Anthony Starkes, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Petitioner's request for appointment of counsel and for transcript is also denied. Haerle, Acting P.J.

DIVISION THREE

**A078452 -- The People v. Gary Russell Walker.**

**A083329 -- In re Gary Russell Walker on Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

**A078934 -- In re the Marriage of Chresie E. Battle and Willard A. Lindsay.**

The appeal is dismissed. Costs to wife. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)



Monday, December 7, 1998 (continued)

**A079529 -- In re Joshua H. et al., Persons Coming Under the Juvenile Court Law.**

The order following the 366.26 hearing terminating the father's rights to Joshua H. and John B. is affirmed. The request to treat the appeal as a petition for habeas corpus is denied. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A084333 -- Anne S. v. The Superior Court of Sonoma County, Sonoma County Department of Human Services.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The permanency planning hearing (§ 366.26) is set for December 29, 1998. Therefore, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(d).) Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

**A078340 -- City of Atascadero et al. v. Merrill Lynch, Pierce, Fenner & Smith, Inc., et al.**

We conclude that pursuant to their agreements and stipulations with the County, appellants retained their inherent rights as trust beneficiaries to proceed directly against third parties such as Merrill Lynch accused to have participated in breaches of trust and fiduciary duty. Because the County is proceeding against Merrill Lynch as a debtor in bankruptcy on behalf of itself and the Option A Pool Participants only, the County's claims against respondents do not conflict or overlap those of appellants in this action. The instant action is brought pursuant to the bankruptcy court's own orders approving the CSA and the Stipulation, both of which specifically authorize appellants' direct pursuit of claims against Merrill Lynch such as those alleged here. Appellants have sufficiently alleged causes of action for breaches of duties and liability damages owed to them directly by respondents. The trial court therefore erred in sustaining respondents' demurrer to the second amended complaint without leave to amend.

Monday, December 7, 1998 (continued)

The judgment on the order sustaining respondents' demurrers to appellants' second amended complaint without leave to amend is reversed. Respondents shall pay appellants' costs on appeal. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Certified for Publication.)

**A082000 -- The People v. Clarence Duncan.**

The judgment is affirmed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, December 8, 1998

DIVISION TWO

**A083137 -- In re Van N., a Person Coming Under the Juvenile Court Law.**

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to the CYA is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A078620 -- Norcal Mutual Insurance Company v. Valerie Jean Adams, et al.**

By The Court: The petition for rehearing is denied. Phelan, P.J.

DIVISION FOUR

**A079480 -- The People v. Niles Davis Simpson.**

The judgment of conviction is affirmed. Poché, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

**A083199 -- The People v. Douglas Keith Bills.**

The judgment of conviction is affirmed. Poché, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, December 9, 1998

DIVISION ONE

**A080517 -- In re Robert M., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

**A081858 -- New Hampshire Insurance Company v. Ridout Roofing Company, Inc.**

The trial court was correct in granting summary judgment for respondent. The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

**A083258 -- Lawrence Lindsay v. The Superior Court of Sonoma County, The People of the State of California, R.P.I.**

By The Court: Respondent court having complied with the directive of paragraph (a) of the alternative writ issued by this court on November 4, 1998, the petition for writ of mandate is dismissed as moot. Kline, P.J.

**A084939 -- Robert Eugene Wilson v. The Superior Court of Marin County, The People of the State of California, R.P.I.**

By The Court: The petition for writ of prohibition/mandate/stay is denied. Haerle, Acting P.J.

Wednesday, December 9, 1998 (continued)

**A085002 -- Roderick Derrell Mcray v. The Superior Court of San Mateo County, The People of the State of California, R.P.I.**

By The Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

DIVISION THREE

**A076964 -- Syntex Corporation et al. v. Lowsley-Williams and Companies et al.**

Order Modifying Opinion; By The Court: It is ordered that the opinion filed herein on November 10, 1998, be modified in the following particulars: (See Order.)

There is no change in the judgment. The petition for rehearing is denied. Phelan, P.J. (Certified for Publication.)

**A081571 -- Richard Slezak v. Rose Tan.**

The judgment is affirmed. Costs on appeal to defendant Rose Tan. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A083009 -- Marsh and McLennan, Inc., Marsh and McLennan Protection Consultants, and James R. Hughes v. The Superior Court of the County of San Francisco, Christine Pacifico-Paul, R.P.I.**

The alternative writ is discharged. Let a peremptory writ of mandate issue directing respondent superior court to enter summary adjudication on the remaining causes of action, and thereafter to enter summary judgment in favor of Petitioners. Petitioners are awarded their costs pursuant to California Rules of Court, Rule 56.4(a). Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Wednesday, December 9, 1998 (continued)

DIVISION FOUR

**A081584 -- The People v. Patricia McCann.**

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

**A077200 -- The People v. Althor Cain.**

The order of commitment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, December 10, 1998

DIVISION ONE

**A076572 -- Robin Moshonov v. John D. Walsh et al.**

The judgment is affirmed. Respondents are awarded their costs on appeal.  
Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A081465 -- Patricia E. McQuade v. Donald Hatler.**

In conclusion, Hatler was not entitled to summary judgment on any ground asserted by him in his moving papers. The judgment is reversed. McQuade is awarded her costs on appeal. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A082492 -- Dan Erlin et al. v. Franchise Tax Board.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A082511 -- Louis C. Cole et al. v. Franchise Tax Board.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A083705 -- The People v. Michael Anthony Martin.**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Thursday, December 10, 1998 (continued)

DIVISION TWO

**A077542 -- The People v. David B. Denison.**

**A082619 -- In re David Brian Denison, On Habeas Corpus.**

By The Court: The written opinion filed November 24, 1998,. is modified as follows: (See Modification.)

This modification does not effect a change in the judgment.

The petition for rehearing is denied. Kline, P.J.

**A081257 -- Robert Wright et al. v. Shandis McKray.**

The trial court's August 29, 1997, order is reversed as to the striking of costs only, and is otherwise affirmed. The matter is remanded to the trial court to determine the amount of costs to which appellant is entitled for filing and motion fees. Each party shall bear its own costs on appeal. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A082053 -- The People v. Jeffrey West.**

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

DIVISION FOUR

**A078208, A079486 -- Mervyn's v. Angelina Reyes, Hayward City Clerk, etc. et al., Sherman L. Lewis III, R.P.I.**

In A078208, we reverse that portion of the superior court's judgment which refused to invalidate and set aside the entire initiative petition and we remand with directions to the superior court to modify its judgment and peremptory writ of mandate by



Thursday, December 10, 1998 (continued)

setting aside Hayward's decisions certifying, approving and adopting the initiative petition under Elections Code section 9215. In A079486 we reverse the superior court's order granting attorney fees to both parties. No attorney fees are awarded to either party. Each party shall bear their own costs on appeal. Hanlon, P.J. We concur: Reardon, J., McGuiness, J. (Not for Publication.)

**A081761 -- Mark Graham v. Young Adult Group of Our Lady of Angels et al.**

The judgment is affirmed. Hanlon, P.J. We concur: Poche, J., McGuiness, J. (Not for Publication.)

DIVISION FIVE

**A082226 -- The People v. Michael D. Holloway.**

We affirm the judgment. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, December 11, 1998

DIVISION ONE

**A079787 -- The People v. Robert Lee Johnson.**

The judgment is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A081091 -- Marlene Kowalski, etc., et al. v. Metalclad Insulation Corporation.**

The order amending the judgment nunc pro tunc as to costs is affirmed. Costs to respondents. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A081806 -- The People v. Henry Anthony Lowe.**

The judgment and sentence appealed from are affirmed. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

DIVISION TWO

**A080279 -- Don Andersen et al. v. Safeway, Inc.**

We conclude the trial court erred in granting summary judgment on appellants' FEHA, public policy, and intentional infliction of emotional distress claims. The judgment of the trial court is reversed and the matter remanded. Appellants are awarded their costs on appeal. Kline, P.J. I concur: Ruvolo, J. See Dissenting opinion of Haerle, J. (Not for Publication.)

Friday, December 11, 1998 (continued)

**A083442 -- In re Mark Q., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

**A075506 -- F.W. Woolworth Company et al. v. Franchise Tax Board.**

The judgment of the trial court is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A078962 -- Marva Smith v. County of Alameda et al.**

For all the foregoing reasons, the judgment of the trial court is reversed and the matter remanded for further proceedings consistent with this opinion, including consideration in the first instance of appellant's request for attorney fees pursuant to Code of Civil Procedure section 1021.5, should she decide to renew it. (See *Mounger v. Gates* (1987) 193 Cal.App.3d 1248, 1258-1260.) Appellant shall recover her costs on appeal. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A079969 -- Hunt-Wesson, Inc., v. Franchise Tax Board.**

The judgment below is reversed. The matter is remanded to the trial court with directions to enter judgment for the Board. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Friday, December 11, 1998 (continued)

**A079984 -- Parkwood Montclair Partners v. Athan Magganas.**

We affirm the judgment against Magganas for slander of title, and the special and punitive damages awarded therefrom in the total amount of \$196,171.29. We reverse the award of attorney fees against Magganas based upon the theory of the tort of another. The matter is remanded for entry of judgment consistent with this opinion. Parkwood to recover costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A081115 -- Aaron M. Weule v. Ranger Insurance Company et al.**

Affirmed. Ranger is entitled to recover costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

**A080250 -- George Pavana et al. v. Das Pollayil.**

The judgment is affirmed. Poché, Acting P.J. We concur: Reardon, J., McGuiness, J. (Not for Publication.)

**A083015 -- Judith Spaletta v. County of Mendocino et al.**

We affirm the judgment. Reardon, J. We concur: Poché, Acting P.J., McGuiness, J. (Not for Publication.)

DIVISION FIVE

**A081458 -- In re Paul D., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

Friday, December 11, 1998 (continued)

**A081508 -- Larry L. Whiteside v. Barrett Burke Wilson Castle Daffin & Frappier, L.L.P.**

The order of the trial court, quashing service of the summons and dismissing the action against Barrett, is reversed. The matter is remanded to the trial court with instructions to deny the motion to quash service of the summons. Appellant shall recover his costs on appeal. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

**A081805 -- The People v. Hugo Berta.**

The case is remanded to the trial court with directions to strike the one year section 667.5, subdivision (b) enhancement that was attributable to appellant's Los Angeles burglary conviction, and to send to the Department of Corrections an amended abstract of judgment. In all other respects, the judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL'  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, December 14, 1998

DIVISION ONE

**A078618 -- Francis Collins et al. v. Metalclad Insulation Corporation.**

The judgment is affirmed. Each party shall bear its own costs on appeal. Stein, J.  
We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A079270 -- Francis Collins et al. v. Metalclad Insulation Corporation.**

The order is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for  
Publication.)

DIVISION FIVE

**A079200 -- The People v. Sara Marie Slater.**

The judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not  
for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE  
Monday, December 14, 1998

Court convened at 9:00 a.m in its Courtroom at 303 Second Street, Marathon Plaza,  
South Tower, Fourth Floor, San Francisco, California.

Present: Phelan, P.J., Parrilli, J., Walker J., and C. Turner, Deputy Clerk.

A081428     Robert Holmes  
                 v.  
                 District Attorney f.or the City and County of San Francisco,  
                 Cause called and argued by Joseph M. Quinn, counsel for appellant, and  
                 Peter Aviles, counsel for respondent. Cause ordered submitted.

A076953A     The People,  
                 v.  
                 Lionel Dixon,  
                 Cause called and argued by David McNeil Morse, counsel for appellant,  
                 and Sharon G. Birenbaum, Deputy Attorney General, counsel for  
                 respondent. Cause ordered submitted.  
                 Justice Corrigan took her place on the bench.  
                 Justice Phelan not participating on the following case.

A079373     Patsy R. Burlesci,  
                 v.  
                 James G. Cummings Trust,  
                 Cause called and argued by Elizabeth Williams, counsel for appellant, and  
                 Lewis Russell Warren, counsel for respondent. Cause ordered submitted.  
                 Justice Parrilli left the bench.

A082670     The California Department of Corrections,  
                 v.  
                 The Superior Court of Solano County,  
                 Gilbert Bribiesca, et al.,  
                 Cause called and argued by Danette Elizabeth Valdez, Deputy Attorney  
                 General, counsel for petitioner and Nora Wellman, counsel for real party in  
                 interest. Cause ordered submitted.

court adjourned

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, December 15, 1998

DIVISION ONE

**A079246 -- Margie McRae v. Lucky Stores, Inc.**

Accordingly, the judgment is affirmed. Costs on appeal are awarded to respondent. Swager, J. We concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

**A080494 -- Triad Systems Financial Corporation v. Step-Ken Auto Parts, Inc., et al.**

Accordingly, the judgment is affirmed. Costs on appeal are awarded to respondents. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A081510 -- Robert B. Martel et al. v. David G. Graves et al.**

The judgment is reversed and the matter remanded for further proceedings consistent with the views expressed in this opinion. Costs to appellants. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

**A081985 -- The People v. Darral Cornist.**

We have reviewed the entire record and find no error. No arguable issues exist. The order is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

**A082434 -- In re Olivia B., a Person Coming Under the Juvenile Court Law.**

The dispositional order of April 10, 1998 is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)



Tuesday, December 15, 1998 (continued)

DIVISION THREE

**A081741 -- In re Jeron W., a Person Coming Under the Juvenile Court Law.**

The order terminating the father's parental rights is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

**A084424 -- In re Houston S., a Person Coming Under the Juvenile Court Law.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for January 6, 1999. Therefore, our decision is final in this court immediately. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

DIVISION FOUR

**A080651 -- The People v. Neal Grayson Taylor.**

The order of probation is affirmed. Poché, Acting P.J. We concur: Reardon, J., McGuiness, J. (Not for Publication.)

**A081513 -- Calaveras County Water District v. United Technologies Corporation et al.**

We affirm the judgment. Reardon, J. We concur: Poché, Acting P.J., McGuiness, J. (Not for Publication.)

**A082898 -- The People v. Damon Clinton Bolanos.**

The judgment is affirmed. Poché, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

Tuesday, December 15, 1998 (continued)

**A083684 -- In re Robert S., a Person Coming Under the Juvenile Court Law.**

We affirm the order sustaining the second supplemental petition and the dispositional order. The "Commitment to the California Youth Authority" is hereby amended to *remove* the "X" in the box for: "Term is consecutive." Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FIVE

Tuesday December 15, 1998

Court convened at 9:30 a.m. in its Courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J.; Stevens, J., and Mary P. Quilez, Deputy Clerk.

- A084543      Transamerica Homefirst, Inc.  
v.  
The Superior Court of San Mateo County  
Cause called and argued by Dirk Schenkkan, counsel for petitioner, and by Niall P. McCarthy, counsel for real parties in interest. Cause ordered submitted.
- A081662      Gloria Bailey  
v.  
Bay Area Air Quality Management District, et al  
Cause called and argued by Joanne Evelyn Morrison, counsel for appellant, and by Gregory David Meronek, counsel for respondent. Cause ordered submitted.
- A083172      Andrey Zavarzin  
v.  
City and county of San Francisco  
Cause called and argued by Andrew Willaim Schwartz, counsel for appellant, and by Paul Utrecht, counsel for respondent. Cause ordered submitted.
- A081358      Basic Modular Facilities, Inc.  
v.  
Keihan Ala Ehsanipour  
Cause called and argued by Douglas N. Akay, counsel for appellant, and

by Helen Brennan Baumann, counsel for respondent. Cause ordered submitted.

A081856      Robert G. Berry  
v.  
Town of Ross;  
  
Samuel Livermore, et al  
Cause called and argued by Robert F. Epstein, counsel for appellant, by  
Hadden Wing Roth, and by Albert Bianchi, counsel for respondents.  
Cause ordered submitted.

A082111      Sorin J. Issvoran  
v.  
John Moldovan, et al  
Cause called and argued by James Alfred Hennefer, counsel for appellant,  
and by Kevin M. Corbett, counsel for respondent. Cause ordered  
submitted.

A081215      John Legnitto  
v.  
Luscutoff, Lendormy & Karasoff, et al  
Cause called and argued by Thomas J. LoSavio, counsel for appellant,  
and by Michele Kathleen Trausch, counsel for respondent. Cause ordered  
submitted.

A079428      Loreen J. Holt  
v.  
Regents of the University of California  
Cause called and argued by Jennifer L. King, counsel for appellant, by  
David G. Edwards, and by Murray M. Aron, counsel for respondents.  
Cause ordered deferred.

A076251      Schram Constructions, et al  
v.  
HBE Corporation  
Cause called and argued by Gregory Emerson Stubbs, counsel for  
appellant, and by Robert Marshall White, counsel for respondent. Cause  
ordered submitted.

A081881      The People  
v.  
Jose Leon Mendoza  
Cause called. Martin S. Kaye, Deputy Attorney General counsel for  
respondent. Counsel for appellant did not appear. Cause ordered  
submitted.

Court adjourned at 1:00 p.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, December 16, 1998

DIVISION ONE

**A077239 -- The People v. Verle Hatfield.**

Order Modifying Opinion; The Court: It is ordered that the opinion filed herein on December 4, 1998, be modified in the following particulars: (See Order.)

There is no change in the judgment. Swager, Acting P.J. (Certified for Partial Publication.)

DIVISION TWO

**A080821/A081338 -- Contra Costa Council, et al. v. Contra Costa County, et al.**

The judgment is reversed. The trial court is directed to issue a writ of mandate directing the Board to rescind its action adopting the ordinance. If the Board chooses to readopt the ordinance, it must, of course, comply with the relevant provisions of CEQA and the law governing planning and zoning ordinances as set forth in this opinion. Costs on appeal are awarded to appellants. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A081162 -- Frederick A. Locher et al. v. Presley Homes et al.**

The judgment is reversed. Costs on appeal are awarded to appellants. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

Wednesday, December 16, 1998 (continued)

**A084944 -- United Air Lines, Inc., et al. v. The Superior Court of San Francisco County, Jeanette L. McNaughton, R.P.I.**

By The Court: The petition for writ of mandate is denied without prejudice to petitioner's filing of a proper discovery motion in accordance with the holdings of *Vinson v. Superior Court* (1987) 43 Cal.3d 833 and *Davis v. Superior Court* (1992) 7 Cal.App.4th 1008. Haerle, Acting P.J.

DIVISION THREE

**A081428 -- Robert Holmes v. District Attorney for the City and County of San Francisco.**

Reversed, with directions to deny the petition for writ of administrative mandamus. The parties shall bear their own costs on appeal. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**A082533 -- The People v. Darrol C. Raven.**

We find no issues requiring further briefing and affirm the judgment. Walker, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

**A079219 -- The People v. Sal Pilar Salvidar Moreno.**

**A081809 -- In re Sal Pilar Salvidar Moreno, On Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied. Hanlon, P.J. We concur: Reardon, J., McGuinness, J. (Not for Publication.)



Wednesday, December 16, 1998 (continued)

**A082022 -- In re April C., a Person Coming Under the Juvenile Court Law.**

The dispositional order is affirmed. Hanlon, P.J. We concur: Poché, J., Reardon, J. (Not for Publication.)

**A082110 -- George Arrospide, Jr. v. Fred Arrospide et al.**

The purported appeal is dismissed. Reardon, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

DIVISION FIVE

**A082024 -- In re Charles L., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, December 16, 1998

The Court met at 9:30 a.m. in its courtroom at 303 - Second Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

- A079032     The People  
              v.  
              Roderick Edward Hardnett  
Cause called and argued by Craig Brandt, counsel for appellant and Ron Niver, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A082163     The People  
              v.  
              Charles Marshal Bonds  
Cause called and argued by William Glass, counsel for appellant and Mia Anna Mazza, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A078285     Elizabeth Rosemary Campbell, et al.  
              v.  
              Parker-Hannifin Corp., et al.  
Cause called and argued by Gary L. Simms, counsel for appellant, Thomas Hammitt, counsel for respondent Parker-Hannifin, Peter Axelrod, counsel for respondents Intrument Pro, et al. and Robert Stumpf, counsel for Cessna. Cause ordered submitted.
- A078828     In re Angelina S., a Minor  
              Contra Costa Social Services Agency  
              v.  
              Leanna Kaye W.
- A083358     In re Leanna W.,  
                  on Habeas Corpus.  
Cause called and argued by Janet Saalfield, counsel for appellant, Mark

Estis, Deputy County Counsel, counsel for respondent and Judith Ganz, counsel for the Minor. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, J., Haerle, J., Lambden, J., and S. Graham, Deputy Clerk.

A080323 Estate of Robert Barneson, Deceased  
Michael McGirr  
v.  
Evelyn Kaiser Barneson  
Cause called and argued by Peter Loewenstein and Tony Tanke, counsel for appellant and Robert Brewer, counsel for respondent. Cause ordered submitted.

A077567 Gurnam Singh, et al.  
A074667 v.  
A075967 Peter Bogart, et al.  
A076133 Causes called and argued by Lara Myers, counsel for appellant Singh, Armando Galvan, counsel for appellant Bogart and Lawrence Scancarelli, counsel for respondents. Causes ordered submitted.

A082169 Alta Bates Medical Center  
v.  
Contra Costa Health Plan  
Cause called and argued by Brian S. Healy, counsel for appellant and Charles Darryl Cordero, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, December 17, 1998 at 9:30 a.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, December 17, 1998

DIVISION TWO

**A085163 -- United Parcel Service, Inc. v. The Superior Court of San Francisco County, Kem Bailey et al., R.P.I.**

By The Court: The petition for writ of mandate is denied without prejudice as premature in that no written order has been signed by the trial court in compliance with Code of Civil Procedure section 437c, subdivision (g). (See *Tera Pharmaceuticals, Inc. v. Superior Court* (1985) 170 Cal.App.3d 530, 532; *Continental Insurance Co. v. Superior Court* (1985) 165 Cal.App.3d 1069, 1071-1072; *Young v. Superior Court* (1986) 179 Cal.App.3d 28.) Haerle, Acting P.J.

DIVISION THREE

**A080209 -- The People v. Theodore Addison.**

The judgment is affirmed. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A081109 -- Department of Corrections v. Office of Administrative Hearings, Robert Johnson, R.P.I.**

The order denying the writ is reversed and the case remanded with directions that the superior court issue a writ requiring the ALJ to reexamine the department's *Keyhea* petition under the correct standard. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Thursday, December 17, 1998 (continued)

**A081157 -- The People v. Jose Maria Torres.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

**A082128 -- Miracle Auto Center et al. v. The Superior Court of San Mateo County, Pacific Specialty Insurance Co., R.P.I.**

The petition for writ of mandate is denied. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Certified for Publication.)

DIVISION FOUR

**A080785 -- In re Michael B., a Person Coming Under the Juvenile Court Law.**

**A081446 -- In re Brittany B. et al., Persons Coming Under the Juvenile Court Law.**

The order of the court denying Yolanda's petition to modify the placement of Brittany and LaShalle and terminating reunification services and continuing placement with Finch is affirmed. Poché, J. We concur: Hanlon, P.J., McGuinness, J. (Not for Publication.)

**A081594 -- The People v. Danny Reiley.**

The finding that appellant's 1985 conviction for "assault w/GBI fce" is a strike prior under section 667, subdivision (e)(2) is reversed. Appellant's sentence to state prison for a term of 35 years to life is affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J. (Not for Publication.)

Thursday, December 17, 1998 (continued)

DIVISION FIVE

**A080157 -- In re Ami T. et al., Persons Coming Under the Juvenile Court  
Law.**

We affirm the judgment. Jones, P.J. We concur: Haning, J., Stevens, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, December 17, 1998

The Court met at 9:30 a.m. in its courtroom at 303 - Second Street, 4th Floor, San Francisco. Present: Kline, P.J., Lambden, J., Ruvolo, J., and I. Santos, Deputy Clerk.

- A076930     Robert Scheiding et al.,  
                 v.  
                 Dinwiddie Construction Company.  
Cause called and no appearances by either counsels. Cause deemed submitted.
- A080122     Rafi Barkat et al.,  
                 v.  
                 A.P. Green Services, Inc., et al.  
Cause called and argued by Christopher Andrew, counsel for appellant, and Michael O'Bresley, counsel for respondent. Cause ordered submitted.
- A079606     Redwood Coast Watersheds Alliance,  
                 v.  
                 State Board of Forestry.  
Cause called and argued by John Davidson, counsel for appellant, and Sharon Duggan, counsel for respondent. Cause ordered submitted.
- A081343     Karyne Cornell,  
                 v.  
                 John Glynn et al.  
Cause called and argued by Geoffrey Spellberg, counsel for appellant, and Marc Zafferano, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, J. Lambden left the bench and J. Haerle joined the bench for the remainder of the calendar.

- A080268     Willie D. Turner et al.,  
                 v.  
                 City of San Leandro.

Cause called and argued by Martin Glickfeld, counsel for appellant, and Gary Watt, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Ruvolo, J. and I. Santos, Deputy Clerk

A078215     The People,  
              v.  
              Henry Glover, Jr.  
Cause called and argued by James Gee, counsel for appellant, and Amy Haddix, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A078553     The People,  
              v.  
              Jose Herrera Rodriguez.  
Cause called and argued via teleconference by John Halley, counsel for appellant, and Lisa Ashley, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A082660     Theodore F. Posthuma,  
              v.  
              Town of San Anselmo.  
Cause called and argued by Hadden Roth, counsel for appellant, and Lance Russell, counsel for respondent. Cause ordered submitted.

A082201     Estate of Marie Elizabeth Schubert.  
              Mary K. Erhardt,  
              v.  
              Gus Tuttle et al.  
Cause called and argued by Richard Tosaw, counsel for appellant, and Brian Connors, counsel for respondent. Cause ordered submitted.

              At this point of the proceedings, Presiding Justice Kline left the bench and Justice Lambden joined the bench for the remainder of the calendar.

A077765     Shawn Scott Bailey,  
              v.  
              San Leandro Property Management et al.  
Cause called and argued by Ellen Lake, counsel for appellant, and Paul Watkins, counsel for respondent. Cause ordered submitted.

A077469 &     Tenderloin Housing Clinic, Inc.,  
A080669     v.  
              Bhazubhai C. Patel et al.



Cause called and argued by Andrew Zacks, counsel for appellant, Andrew Schwartz, counsel for amicus curiae City and County for San Francisco, and Timothy Lee, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, December 18, 1998

DIVISION ONE

**A081342 -- Plum Tree Townhomes Homeowners' Association v. Tobey  
Ringuette et al.**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Marchiano, J.  
(Not for Publication.)

DIVISION TWO

**A081046 -- The People v. Eric Nelson Braun.**

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not  
for Publication.)

**A081076 -- In re Cesar M., a Person Coming Under the Juvenile Court Law.**

The CYA commitment order is affirmed. Ruvolo, J. We concur: Kline, P.J.,  
Haerle, J. (Not for Publication.)

**A081361 -- Dale Atkins v. County of Alameda et al.**

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for  
Publication.)

**A084815 -- Liberty Mutual Insurance Company v. The Superior Court of  
Solano County, Scottsdale Insurance Company, R.P.I.**

By The Court: the petition for writ of mandate is denied. Haerle, Acting P.J.

Friday, December 18, 1998 (continued)

**A085128 -- In re Willis Edward Lilly, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

**A085148 -- In re Douglas Raymond Nelson, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

**A085149 -- In re Muharem Kurbegovich, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

**A080650 -- The People v. David Jon Gamali.**

Order Modifying Opinion; By The Court: It is ordered that the opinion filed herein on November 30, 1998, be modified in the following particulars: (See Order.) There is no change in the judgment. Phelan, P.J.

**A080650 -- The People v. David Jon Gamali.**

By The Court: The petition for rehearing is denied. Phelan, P.J.

Friday, December 18, 1998 (continued)

DIVISION FOUR

**A083006 -- In re Manuel M., a Person Coming Under the Juvenile Court Law.**

The dispositional order is affirmed. Poché, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

DIVISION FIVE

**A079594 -- The People v. David Marvin Willis.**

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A081612 -- In re the Estate of Allen Larry Fox, Deceased.**

**Edith Louise Sanford v. Charles C. Plummer, as Public Administrator etc.**

The appeal from the order for final distribution of the estate is dismissed. The order denying the motion to vacate the judgment is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

Courtroom Minutes  
Division 4  
Friday, December 18, 1998

Court convened at 9:30 a.m. in its courtroom at 303-2nd Street, 4th Floor, San Francisco. Present: Hanlon, P.J., and McGuiness, J.; Channing Hoo, Deputy Clerk and CHP Officer Lorrie Kempf, Bailiff.

- A075326      Susan Cleary  
                 v.  
                 John Leonard, MD et al.  
                 Cause called. Counsel confirmed waiving 3-member bench panel. Argued by Robert C. Kennedy, counsel for appellant Cleary, and by Philip Ward, counsel for respondents. Cause ordered submitted.
- At this point, the court reconstituted itself to include Hanlon, P.J., Reardon, J. and McGuiness, J.
- A082618      John J. Hounslow et al.  
                 v.  
                 Southwestern Life Insurance Company  
                 Cause called and argued by Phillip G. Vermont, counsel for appellants Hounslow et al., and by Tyler G. Olpin, counsel for respondent. Cause ordered submitted.
- A081297      Lee J. Sneath, Jr. et al.  
                 v.  
                 Ann S. Bowers  
                 Cause called and argued by W. Patrick Kelly, Sr., counsel for appellants/cross-respondents Sneath et al., and by Thomas R. Cave, counsel for respondent/cross-appellant. Cause ordered submitted.
- At this point, the court reconstituted itself to include Hanlon, P.J. and Reardon, J.

A078736 Morrison Knudsen Corporation et al.  
v.  
Hancock, Rothert & Bunshoft, LLP.  
Cause called. Counsel confirmed waiving 3-member bench panel. Argued by Jerome B. Falk, Jr., counsel for appellant Hancock, and by Jane Pandell, counsel for respondents. Cause ordered submitted.

A071728 Dennis Wozniak Graphic Design et al.  
v.  
Phoebe Cooke et al.  
Cause called. Counsel confirmed waiving 3-member bench panel. Argued by Quentin L. Kopp, counsel for appellants/cross-respondents Cooke et al., and by Daniel Qualls, counsel for respondents/cross-appellants. Cause ordered submitted.

Court adjourned at 11:34 a.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, December 21, 1998

DIVISION ONE

**A078803 -- The People v. Arnold Thomas.**

The judgment is reversed insofar as it imposes sentences and restitution fines for perjury, preparation of false evidence, offer of false evidence, and presentation of statement containing false information in support of insurance claim. The abstract of judgment shall be amended to reflect that the sentences imposed on counts 1 through 4 are stayed pursuant to Penal Code section 654. In all other respects it is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

DIVISION TWO

**A080596 -- The People v. Brent Matthew Fauquier.**

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A080670 -- John Robertson, et al. v. The Housing Group.**

The judgment is reversed. Costs on appeal are awarded to appellants. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A081490 -- The People v. Randy Rex Mettler.**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Monday, December 21, 1998 (continued)

**A081896 -- The People v. Gary Wayne Damron.**

**A083973 -- In re Gary Wayne Damron on Habeas Corpus.**

Damron having failed to show good cause to relieve his default in failing to seek or procure a certificate of probable cause (§ 1237.5; rule 31(d)), his application for relief from default is denied. Accordingly, the appeal (A081896) is dismissed (*Breckenridge, supra*, 5 Cal.App.4th at pp. 1102-1103), and the related petition for writ of habeas corpus (A083973) raising the same issue is denied (*In re Brown, supra*, 9 Cal.3d at p. 686). Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A082582 -- In re Brian F., a Person Coming Under the Juvenile Court Law.**

**A084166 -- In re Brian F., On Habeas Corpus.**

The orders are affirmed. The petition for writ of habeas corpus is denied. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

**A083087 -- The People v. Kevin Lee Barrios.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A085189 -- Kathy Smith v. The Superior Court of Alameda County, Kimberly Anderson, et al., R.P.I.**

By The Court: Respondent court having notified this court that the trial in the above-referenced case has been completed, and a return to the alternative writ thus no longer necessary or appropriate, the petition for writ of mandate is dismissed as moot. Haerle, Acting P.J.



Monday, December 21, 1998 (continued)

DIVISION THREE

**A078651, A079320 -- Jo'An Kleckner v. United Airlines.**

The judgment is affirmed. The parties shall bear their own costs on appeal.  
Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Not for Publication.)

**A081151 -- Marc A. Fisher v. Wells Fargo Bank.**

The judgment is affirmed. Each party is to bear its own costs on appeal. Parrilli, J. We concur: Phelan, P.J.\*, Walker, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

DIVISION FOUR

**A082331 -- Milton Lorig et al. v. Medical Board of California et al.**

The purported appeal is dismissed. McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**A082618 -- John H. Hounslow et al. v. Southwestern Life Insurance Co.**

We affirm the judgment. Reardon, J. We concur: Hanlon, P.J., McGuiness, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, December 21, 1998

The Court convened at 9:00 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Swager, J. and N. Millner, Deputy Clerk.

- A084054     The People,  
              v.  
              Superior Court of Contra Costa County;  
              Barry Whitley, RPI.  
Cause called and argued by Bruce Slavin, Deputy Attorney General, counsel for petitioner, and Ronald Boyer, Deputy Public Defender, counsel for real party in interest. Cause ordered submitted.
- A080233     The People,  
              v.  
              Kenneth Bernard Payne.  
Cause called and argued by Brian Hong, counsel for appellant, and David Salmon, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A082680     In re Marriage of Johnson.  
              Autumn N. Dettmer,  
              v.  
              Ja'Harvey Dillard Johnson.  
Cause called and continued to the January 1999 calendar due to the unavailability of appellant as his wife was in the hospital giving birth.
- A081765     Bill Repp,  
              v.  
              Franchise Tax Board.  
Cause called and argued by Philip Horowitz, counsel for appellant, and Mark Robson, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until 2 p.m.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, December 21, 1998

The Court convened at 2:00 p.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Marchiano, J. and B. Robbins, Deputy Clerk.

A080811 Cushman & Wakefield of California, Inc.,  
v.  
Kemper Real Estate Management.  
Cause called and argued by William Norman, counsel for appellant, and Robin Meadow, counsel for respondent. Cause ordered submitted.

A082317 City of Berkeley Rent Stabilization Board,  
v.  
Etna Associates, et al.  
Cause called and argued by Brian Kelley, counsel for appellant, and James Ader, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench for the remainder of the calendar.

A082563 Poland Pitre, Sr. et al.,  
v.  
Scott Company of California, et al.  
Cause called and argued Harry Wartnick, counsel for appellants; and James Colgan, counsel for respondent Fluor Corp. and Scott Company; Mark Love, counsel for respondent Kaiser Aluminum; and Joshua Baker, counsel for respondent Douglas Insulation. Robert Friedl appeared on behalf of respondent Pedus Building Services but did not argue. Cause ordered submitted.

A078515 Richard B. Pasek, et al.,  
v.  
Burton Village, Ltd., et al.  
Cause called and argued by Bryce Anderson, counsel for appellants, and  
Neil Houston, counsel for respondents. Cause ordered submitted.

A080187 James McBride, et al.,  
v.  
William D. Thomson.  
Cause called and argued by John McDonnell, counsel for appellants, and  
William D. Thomson, via teleconference, counsel for respondent. Cause  
ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, December 22, 1998

DIVISION ONE

**A080382 -- The People v. Paul Randall Page.**

The decisions of the trial court are supported by the evidence. The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A081581 -- The People v. Jeffrey Sykes.**

The judgment of conviction is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

**A082269 -- The People v. Gregory Chatten Stockman.**

The order is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

**A082531 -- The People v. Kenith Nielsen.**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

**A082657 -- The People v. Stephen Clyde Dunn.**

By The Court: The appeal on file herein is dismissed as moot. (See In re Dunn (A085061).) Strankman, P.J.

Tuesday, December 22, 1998 (continued)

**A085061 -- In re Steven Clyde Dunn, on Habeas Corpus.**

By The Court: Therefore, the petition for writ of habeas corpus is granted to the extent that (1) the judgment of conviction entered April 9, 1998, in Del Norte County Superior Court case No. 95-172-C is vacated; the sentence previously imposed on October 15, 1997, by Sutter County Superior Court in case No. CRF-97-3071 is reinstated; (3) petitioner shall receive full credit against that sentence for all time served from the date of its imposition and forward; and (4) the Del Norte County Superior Court shall immediately prepare a corrected abstract of judgment and forward a certified copy of it to the Department of Corrections.

This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24 (d).) Before Strankman, P.J., Stein, J., and Marchiano, J. (Not for Publication.)

DIVISION TWO

**A077696 -- In re LaQuenza W., a Person Coming Under the Juvenile Court Law.**

This appeal is dismissed without reaching its merits for lack of appellate jurisdiction. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

**A078168 -- The People v. Joe Lynn George.**

For the foregoing reasons the judgment of conviction, including the sentence imposed, is affirmed. Phelan, P.J.\* We concur: Parrilli, J., Walker, J.

\*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Tuesday, December 22, 1998 (continued)

**A080971 -- The People v. Buddy Lee Carter.**

Affirmed. Walker, J. We concur: Phelan, P.J.\*, Corrigan, J.

\*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

**A082521 -- Estate of Truman R. Earle, Deceased.**

**Garrett R. Earle, as Administrator, etc. v. Eva Monty.**

Affirmed. Respondent to recover costs on appeal. Walker, J. We concur: Phelan, P.J.\*, Parrilli, J.

\* Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, December 23, 1998

DIVISION ONE

**A077768 -- The People v. Kao Kouei Saechao et al.**

The judgment is reversed as to the conviction of Kao Kouei Saechao of carrying a concealed weapon. In all other respects the judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A084487 -- Douglas Comstock et al. v. Naomi Nishioka et al.**

The judgment of dismissal is affirmed. Respondents are entitled to recover their costs on appeal. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

**A078828 -- In re Angelina Kay S., a Person Coming Under the Juvenile Court Law.**

**A083358 -- In re Leanna W. on Habeas Corpus.**

We affirm the judgment, and the April 11, 1997 order is to be modified in accordance with this opinion. We deny the petition for habeas corpus. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A082296 -- In re Jerry J., a Person Coming Under the Juvenile Court Law.**

The judgment of the trial court is affirmed in all respects. Ruvolo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)



Wednesday, December 23, 1998 (continued)

**A082891 -- The People v. Gary Lee Perrier.**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A085207 -- In re Charles Franklin, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

**A085208 -- Lester Gene Nicholson v. The Superior Court of Marin County, The People of the State of California, R.P.I.**

By The Court: The petition for writ of habeas corpus/prohibition is denied. Haerle, Acting P.J.

**A085249 -- In re Carlos Alfredo Hernandez, on Habeas Corpus.**

By The Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

DIVISION THREE

**A079373 -- Patsy R. Burlesci v. Robert C. Petersen et al., as Co-Trustees, etc.**

The judgment is affirmed as to the causes of action for fraud and negligent misrepresentation. In all other respects the judgment is reversed. Burlesci shall recover her costs on appeal. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Certified for Partial Publication.)

Wednesday, December 23, 1998 (continued)

**A081659 -- Mark Lee et al. v. The City of Oakland.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J.\*, Parrilli, J.

\*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A082489 -- The People v. Sam Wesley, Jr.**

The judgment is affirmed. Walker, J. We concur: McGuiness, P.J., Corrigan, J.  
(Not for Publication.)

DIVISION FOUR

**A077291 -- The People v. Thomas Galvan, Jr. et al.**

The judgments are affirmed. Reardon, J. We concur: Hanlon, P.J., Poché, J.  
(Certified for Partial Publication.)

**A081297 -- Lee J. Sneath, Jr. et al. v. Ann S. Bowers, as Trustee, etc.**

The judgment is affirmed. Each party to bear his or her own costs of appeal.  
McGuiness, J. We concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

**A082930 -- Robert R. Cramer v. California Highway Patrol et al.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., McGuiness, J.  
(Not for Publication.)

Wednesday, December 23, 1998 (continued)

DIVISION FIVE

**A081580 -- Jerry A. Neal, Sr. v. Leon Urban et al.**

The judgment is reversed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, December 24, 1998

DIVISION ONE

**A082376 -- The People v. Jessie Vasquez Ponce.**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A082247 -- Barbara Hanen v. Suzanne Waterman.**

The January 23, 1998, order is reversed and remanded to the superior court so that it may consider, among other things, (a) whether to approve Waterman's proposed plan without ordering Nutting to institute the plan absent Hanen's approval, and (b) whether to invite a petition for modification of Trust B. Each party is to bear her own costs on appeal. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, December 28, 1998

DIVISION TWO

**A081858 -- New Hampshire Insurance Company v. Ridout Roofing Company, Inc.**

By The Court: It is ordered that the opinion filed herein on December 9, 1998, be modified in the following particulars: This modification does not effect a change in the judgment. (See Order.) Haerle, Acting P.J.

**A082229 -- Billy Messer et al. v. County of Solano.**

The judgment of the trial court is reversed. Costs on appeal are awarded to appellants. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

DIVISION FIVE

**A079574 -- Contra Costa Water District v. Thelma Souza.**

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, December 29, 1998

DIVISION THREE

**A078962 -- Marva Smith v. County of Alameda, et al.**

By The Court: Since this court's December 11, 1998 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the request for publication is denied.

Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the request for publication, the opinion, and a copy of this order. Corrigan, Acting P.J.

DIVISION FOUR

**A078565 -- David P. Sutton v. Golden Gate Bridge Highway and Transportation District.**

Order Granting Publication; By The Court: The requests to publish this court's opinion filed December 3, 1998, is granted and the opinion shall be certified for publication in the Official Reports. Hanlon, P.J.

**A080364 -- Carley Gracie v. Jane Lynne Rouse.**

The order of disqualification is reversed. In the interests of justice, each party is to bear his or her own costs of appeal. McGuiness, J.\* We concur: Hanlon, P.J., Reardon, J.

\*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Tuesday, December 29, 1998 (continued)

**A082944 -- Robert Andrew Harkness, as Special Administrator, etc. v. First Interstate Bank et al.**

The purported appeal is dismissed. McGuiness, J.\* We concur: Hanlon, P.J., Reardon, J.

\*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION FIVE

**A080727 -- The People v. Burnell Thornton.**

The judgment is affirmed. Haning, J. We concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A081051/A081054 -- The People v. Gustavo Fernandez Contreras Erasto Castillo Garcia.**

The judgments of conviction are affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

**A082363 -- In re Jermaine R., a Person Coming Under the Juvenile Court Law.**

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing him outside the home of his mother is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, December 30, 1998

DIVISION TWO

**A080780 -- Information Processing Systems of California, Inc. v. World  
Satellite Communications Corporation, et al.**

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A076953A -- The People v. Lionel Dixon.**

The judgment is affirmed. Parrilli, J. We concur: Phelan, P.J.\*, Walker, J.

\*Retired Presiding Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

**A082506 -- In re Richard C. et al., Persons Coming Under the Juvenile Court  
Law.**

The order is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Certified for Publication.)

**A083212 -- The People v. London Walter Huntley.**

Having reviewed the record, we find no meritorious issues to be argued. The judgment is, therefore, affirmed. Corrigan, Acting P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)



MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, December 31, 1998

DIVISION ONE

**A077789 -- The People v. Li Buirst.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A080233 -- The People v. Kenneth Bernard Payne.**

The judgment is reversed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A082317 -- City of Berkeley Rent Stabilization Board v. Etna Associates et al.**

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

DIVISION FOUR

**A080393 -- The People v. Thomas Michael Moore.**

The judgment is affirmed. Hanlon, P.J. We concur: Poché, J., McGuiness, J.\*

\*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

Thursday, December 31, 1998 (continued)

**A082156 -- The People v. Newell Christensen.**

Having found that appellant's detention was reasonable and that, therefore, his consent to the search of his person was freely given, we affirm the judgment. Hanlon, P.J. We concur: Poché, J., McGuiness, J.\*

\*Presiding Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

DIVISION FIVE

**A082699 -- The People v. Randy Dwayne Seeman.**

The judgment of conviction is affirmed. Stevens, J. We concur: Jones, P.J., Haning, J. (Not for Publication.)